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DOCKET NO.: 218881US0CONT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Re: Serial No.: 10/067,941
Applicants: Naoko TSUJI, et al.
Filing Date: FEBRUARY 8, 2002
For: TREATING METHOD FOR SUPPRESSING HAIR GROWTH
Group Art Unit: 1651
Examiner: FLOOD, M. C.

SIR:

Attached hereto for filing are the following papers:

RESTRICTION RESPONSE

Our check in the amount of $ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. §1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. §1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

Naoko TSUJI, et al. : EXAMINER: FLOOD, M. C.

SERIAL NO.: 10/067,941 : GROUP ART UNIT: 1651

FILED: FEBRUARY 8, 2002 :

FOR: TREATING METHOD FOR SUPPRESSING HAIR GROWTH :

RESTRICTION RESPONSE

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the Restriction Requirement of July 15, 2002, Applicants elect Group II, Claim 8, with traverse.

REMARKS

The Examiner is requiring restriction as follows:

Group I: Claims 1-3, 4 and 7 are directed to a method of inhibiting hair growth comprising administering a plant extract; and

Group II: Claim 8, drawn to a method of inhibiting hair growth comprising administering an elastase inhibitor or neutral endopeptidase inhibitor; and at least one proteolytic enzyme.

Applicants have elected, Group II, Claim 8 with traverse.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is

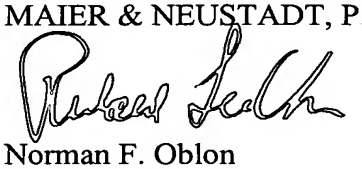
not required. (MPEP 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (MPEP 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing any reason and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

Examiner has categorized the relationship between the inventions of Group I and II as "unrelated". Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, it is asserted that the two groups are different, as directed to two different inventions. As basis, it is asserted that the inventions of the two groups describe different methods of treatment, comprising the administration of different ingredients, which are expected to have different functional effects. It is further argued that the inventions are independent and distinct as they have a separate status in the art as a separate subject for inventive effect and require independent searches as a result of different classification. It is further argued that a reference which would anticipate the invention of one group would not necessarily anticipate or make obvious the other group. However, the Examiner's reasons for concluding that the two groups are unrelated are merely restatements of the Examiner's ultimate conclusion that the groups are unrelated, and actually provides no substantive reasoning as to the difference between the two inventions. The Examiner has provided no reasons in support of her conclusion that the two groups are different and accordingly the restriction is believed to be improper and should be withdrawn.

Applicants submit this application is now in condition for examination on the merits, and early notification of such actions are earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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